

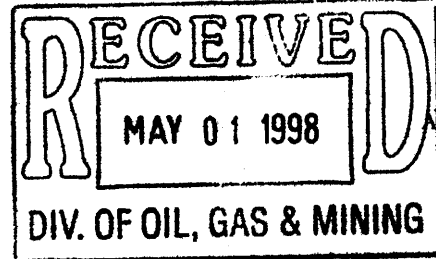
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April 30, 1998

Lowell Braxton
Acting Director
Department of Natural Resources
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
Salt Lake City UT 84114-5801

Dear Mr. Braxton:

This letter will acknowledge your correspondence dated April 27, 1998 regarding the record for the appeal in Docket Number 95-025. A copy is attached. I am writing to request that you reconsider the decision to not include the transcripts from the informal hearing in this administrative proceeding.

If we understand the reasoning in your letter, it is your opinion that the transcript for the informal conference is not part of the administrative record because the Board of Oil Gas and Mining did not rely upon the administrative hearing for the opinion that it wrote on collateral estoppel. We must respectfully disagree. As you are probably aware, the opinion does refer to the informal conference and the findings that were made. More importantly, it is our belief that the record on appeal should include the entire administrative record including the transcripts from the informal conference. That way the appellate court that hears the appeal will have the benefit of all of the proceedings.

Including the entire record, if requested by a party, is fundamental. If the Division chooses to argue that parts of the record are not relevant, or material, it may do so. Even that decision will require an evaluation by the Court of the record and the materials that you now indicate will be excluded. That evaluation cannot not occur unless all of the record is made available.

This does not seem to be the type of matter which should be disputed or litigated. For that reason we are writing to respectfully request your decision be reconsidered. If your position is not going to change, please let me know in writing so that we may formally

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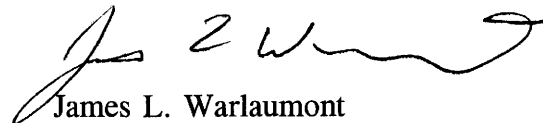
Lowell Braxton
April 30, 1998
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request appropriate relief from the Utah Supreme Court.

Thank you.

Very truly yours,

APPEL & WARLAUMONT



James L. Warlaumont

Enclosure a/s

cc: Jeffrey W. Appel
J. Craig Smith
Dan Moquin
Patrick O'Hara

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DIVISION OF OIL, GAS AND MINING

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April 27, 1998

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Re: Request for Transcripts to Be Included in the Record on Appeal

Dear Mr. Warlaumont:

The transcripts for the Board's Docket Number 95-025 will be included in the record. In the Order for this matter dated March 6, 1998, the Board incorporates by footnote the entire case record including the transcripts for the prior case, Docket Number 94-027:

"The Prior Case Record, abbreviated for citation purposes in this Order as "Prior R.", is hereby incorporated by this reference into the official administrative Record in this case.

The transcripts for the Informal Hearing held October 17, 1996, November 8, 1996, and February 28, 1997 were never received as evidence in Docket Number 95-025. Documents from the Informal Hearing are included in the record on appeal if they were included as attachments to pleadings. Further, the Board states on page 60 in its March 6, 1998 Order, "This Order is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted,..." Based on the foregoing, the request to have the transcripts from the Informal Hearing included in the record on appeal is hereby denied.

Sincerely,

Lowell Braxton
Acting Director

th

cc: P. O'Hara
D. Moquin